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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 2ND DAY OF JUNE 1998

B E F O R E

THE HON'BLE MR. JUSTICE H.L. DATTU

WRIT PETITION NO.3375/1993

C/w

WRIT PETITION NOS.7366-67/1993, 6066-68/1993,

AND WRIT PETITION NO.28829/1997

BETWEEN:

IN W.P.No.3375/93:

Sri. M.S.Shivaswamy,
ASO (Retd.), major,
No.1586, V Main E Block,
Rajajinagar, Bangalore-10. ... Petitioner.

(By Sri Vishwanath R. Hegde for Sri Udaya Holla for Petr.)

AND:

1. The State of Karnataka,
   rep. by the Chief Secretary,
   Vidhana Soudha, Bangalore - 1.

2. Karnataka Soaps & Detergents
   Ltd. (A Govt. of Karnataka
   Enterprise) having its office
   at PO No.5531, Chord Road,
   Bangalore - 55, rep. by its
   Executive Director. ... Respondents.

... 2/-

(By Sri K.Lakshminarayana for R-2,
Sri Udayashankar, Addl.G.A., for R-1.)

This Writ Petition filed under Articles 226 & 227 of the Constitution of India with an affidavit praying to: Declare that the Government order dt. 17-8-1987 vide Annexure 'B' issued by the 1st respondent is applicable to the petitioner and that he is entitled to the benefit arising thereunder and etc.

IN W.P.Nos.7366-67/93:

BETWEEN:

1. Sri G.Eswarappa,
   Chief Store Keeper,
   (Fuel Stores), No.268,
   44th Cross, 5th Block,
   Jayanagar, Bangalore-41.

2. Sri A.Munivenkataiah, B.Com.,
   No.443/23, 37th Cross, 2nd
   Block, Rajajinagar,
   Bangalore - 10.

... Petitioners
Respectively.

(By Sri Udaya Holla for Petrs.)

AND:

1. State of Karnataka,
   rep. by the Chief Secretary,
   Vidhana Soudha, Bangalore - 1.

2. Karnataka Soaps & Detergents Ltd.,
   (Govt. of Karnataka Enterprise),

... 3/-

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AND:

1. State of Karnataka,
   rep. by the Chief Secretary,
   Vidhana Soudha, Bangalore-1.

2. Karnataka Soaps & Detergents Ltd.,
   (Govt. of Karnataka Enterprise),
   P.O.Box No.5531, Chord Road,
   Bangalore - 55, rep. by its
   Executive Director. ... Respondents.

(By Sri K.Lakshminarayana Rao for R-2.)

These Writ Petitions filed under Articles 226 & 227 of the Constitution of India with an affidavit praying to: Declare that the Govt. Order No.FD.20 SRS 87(1) Bangalore dated 17.8.87 at Annex-B issued by the first respondent is applicable to the petitioners and that they are entitled to the benefit arising thereunder and etc.

IN W.P.No.28829/1997:

BETWEEN:

Sri A.N.Mohan Vittal Rao,
S/o A.N.Venkoba Rao, aged
about 60 years, 444,
"Dhanvantri", Vishweswaranagar,
I Stage, Mysore - 570 008. ... Petitioner.

(By Sri Udaya Holla for Petr.)

AND:

1. The State of Karnataka,

PO Box No.5531, Chord Road,
Bangalore - 55, rep. by its
Executive Director. ... Respondents.

(By G.A., for R-1, Sri K.Lakshmi Narayana Rao for R-2.)

These Writ Petitions filed under Articles 226 & 227 of the Constitution of India with an affidavit praying to: Declare that the Govt. order No.FD 20 SRS 87 (1) B'lore dt. 17.8.87 vide Annexure 'B' issued by the R1 is applicable to petitioners and that they are entitled to the benefit arising there under, and etc.

IN W.P.Nos.6066-68/93:

BETWEEN:

1. Sri K.Kalaiah,
Senior Engineer (Retd.),
No.372, C Block, 10th Main,
J.P.Nagar (Nachanahalli),
Mysore - 570 023.

2. Sri K.B.Rajashekararadya,
Administrative Officer (Retd.),
No.103, Anikethana, Kuvempunagar,
Mysore - 570 023.

3. Sri M.C.Mariyappa,
115, 4th Main, 13th Cross,
Vidyaranyapuram,
Mysore - 570 008. ... Petitioners Respectively.

(By Sri Udaya Holla for Petrs.)

... 4/-

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rep. by the Chief Secretary,
Vidhana Soudha, Bangalore - 1.

2. Karnataka Soaps & Detergents Ltd.,
(Govt. of Karnataka Enterprise),
having its office at PO No.5531,
Chord Road, Bangalore - 55,
rep. by its Executive Director.... Respondents.

(By Govt. Adv. for R-1, Sri K.Lakshminarayana Rao for R-2.)

This Writ Petition filed under Articles 226 & 227 of the Constitution of India with an affidavit praying to: Declare that the Govt. Order No.FD 20 SRS 87(1) Bangalore, dt. 17.8.87 at Annex.B issued by the R1 is applicable to the petitioner and that he is entitled to the benefit arising thereunder & etc.

These Writ Petitions coming on for hearing this day, the Court made the following:

O R D E R

bsr(c.t.)
r.by: 20/7/98

c.by:

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HLDJ:

02.06.1998

W.P. 3375/1993 c/w. W.P. 7366-67/1993, W.P. 6066-68/1993 & W.P. 28829/1997

O R D E R

Since common questions of fact and law are involved in all these writ petitions they are all clubbed, heard and disposed off by this common order.

Petitioners in these writ petitions are retired officials retired from the service of the respondent company. They are all before this Court for a direction to the respondent company to pay them the enhanced gratuity amount enhanced from Rs.50,000 to Rs.1,00,000 by the state Government in its order dated 17.08.1987. In order to appreciate the contentions and the relief sought for by the petitioners in these writ petitions it may be useful to refer to the facts in W.P. 3375/1993.

Briefly the facts are, petitioner had joined the services of the Government Soap Factory some time in the year 1955. The Said Government Soap Factory was taken over by the second

O R D E R

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respondent Karnataka Soaps and Detergents Limited, Bangalore some time in the month of August 1980. While working in the services of the Government Soap Factory petitioners were governed by the Work Service Rules framed by the State Government. After the company was taken over by the second respondent, the respondents had directed the petitioner and similarly placed persons to exercise their option with regard to continue under the Work Service Rules or change over to the service rules of the company. This option is indicated the Government ORder itself which is dated 12.09.1980. Pursuant to such an option given to the petitioners, I am informed by the learned counsel appearing for the petitioners that they all had opted to be governed only under Work Service Rules framed by the State Government.

The State Government in its order No. FD 20 SRS 87(1) Bangalore dated 17.08.1987 was pleased to enhance the maximum gratuity amount payable to an employee working as a Government Servant either after his retirement from service or after his death to a maximum of Rs.1,00,000. Petitioners being of the view that the said Government Order would apply to them in all force since they were governed by the Work Service Rules framed by the State Government and in view of the orders made by

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the State Government dated 07.08.1961, have approached the second respondent company interalia requesting them to enhance the gratuity amoung payable to them from Rs.50,000 to Rs.1,00,000. The respondent company has not considered the representations filed by the petitioners for such enhancing. In some of the cases they have issued an endorsement to the effect that they would be considering the request of the petitioners once the financial position of the company would improve. In yet another endorsement they would only say that the company is waiting for a clarification from its registered office as to whether to implement the government order dated 17.08.1987 enhancing the gratuity amount payable to retired employees. In yet another endorsement they say that petitioner's request for enhancing the gratuity amount will be taken up for consideration when the company reaches a break-even level. Since the respondent company had not considered the representations filed by them, petitioners had no other alternative but to approach this Court for the reliefs indicated by me earlier.

Respondents have filed their detailed statement of objections resisting the reliefs sought for by the petitioners, the averments made in the statement of objections need not be

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noticed by me since the learned counsel appearing for the petitioners vehemently contends before this Court that the respondent company at no point of time had informed the petitioners that they are not entitled for enhancing the gratuity amount and they had not informed the petitioners that they cannot derive any benefit from the Government Order dated 17.08.1987. Learned counsel for petitioners also makes a statement before this Court that the only reason that the respondent company had assigned while issuing the endorsement was that the financial position of the company is bleak and therefore the company will not be in a position to take up representations filed by the petitioners into consideration for enhancing the gratuity amounts and in view of long lapse of time from the date of endorsment till this date the respondent company's financial position must have been improved and therefore a direction requires to be issued by this Court to the company to consider the representations filed by the petitioners for enhancing the gratuity amount.

Learned counsel appearing for the petitioners has urged various other contentions in support of the relief sought in the writ petitions. Those contentions raised by the learned counsel for petitioners need not be noticed by me for the

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reason that I intend to direct the respondent company to consider and dispose off the representations filed by the petitioners for enhancing the gratuity amounts from Rs.50,000 to Rs.1,00,000/-.

Here is a case where petitioners are of the view that they are eliglble for the enhanced gratuity amounts as per the government order dated 17.08.1987. Further they are of the view that they are governed by the Work Service Rules. Petitioners have gone before the respondent company by making appropriate representation requesting them to enahcne the grtuity amount from Rs.50,000 to Rs.1,00,000. That representations are of the year 1992. Respondent company inmy view should have considered those representations and passed appropriate orders in accordanc@ with law and in accordance with the rules prevailing during the relevant point of time. Since the respondents have not done anything on the representations filed by the petitioners, I am left with no other alternative but to direct the responcent company to consider and dispose off the representations filed by the petitioners for enhancing the gratuity amounts from Rs.50,000 to Rs.1,00,000 in accordance with law and in accordance with the rules framed by the company and in accordance with the government

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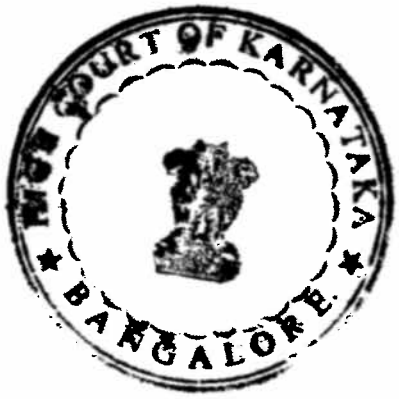
orders as expeditiously as possible at any rate within two months from the date of receipt of a copy of this Court's order. Petitioners are also at liberty to file additional representations before the comapny within one week from today taking up all such contentions which are available to them including the contentions raised in these writ petitions. If such additional representations are filed by the petitioners the respondent company will take up all those representations into consideration while disposing off the representations filed by the petitioners for enahncing the gratuity amounts.

With these observations writ petitions are disposed off. Ordered accordingly.



Sd/-
JUDGE

LRS/WP3375.93/030698.